

AMENDED IN SENATE APRIL 8, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1027

Introduced by Senator Wyland

February 12, 2010

An act to ~~amend Section 3000 of~~ *add Section 3041.3 to* the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 1027, as amended, Wyland. Parole: sex offenders.

~~Existing law requires the Department of Corrections and Rehabilitation to release a prisoner on a specified period of parole after the expiration of a specified term of imprisonment. Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, the Sexual Predator Punishment and Control Act: Jessica's Law, provides that in the case of sex offenders who have received a life sentence for the commission of certain sex offenses the period of parole shall be 10 years. Existing law provides that the Board of Parole Hearings shall have the power to allow prisoners imprisoned in the state prisons for an indeterminate sentence to go upon parole outside the prison walls and enclosures.~~

This bill would provide that prisoners who are required to register pursuant to the Sex Offender Registration Act and who are sentenced to an indeterminate sentence shall be ineligible for parole unless the prisoner has been evaluated by 2 practicing psychiatrists or practicing licensed psychologists, or one practicing psychiatrist and one practicing licensed psychologist, appointed as specified, and both of these professionals have determined that the prisoner poses no danger to society based on an interview and the administration of the Minnesota

Multiphasic Personality Inventory. The bill would require any psychiatrist or licensed psychologist performing an evaluation pursuant to these provisions to take into consideration that prisoner's initial sentencing memorandum that was issued when the prisoner was sentenced in court. The bill would provide qualification requirements for the psychiatrists or licensed psychologists performing this evaluation. The bill would provide that in the event that the evaluating psychiatrists or licensed psychologists conclude that their assessments affirmatively support the prisoner's release on parole, the board shall nonetheless retain discretion to deny parole based on any other criteria considered by the board.

~~This bill would instead provide that in regard to these sex offenders, the period of parole shall be 15 years.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3041.3 is added to the Penal Code, to
2 read:
3 3041.3. (a) Notwithstanding any other law, in the case of any
4 prisoner required to register as a sex offender pursuant to the Sex
5 Offender Registration Act and sentenced pursuant to any provision
6 of law, other than Chapter 4.5 (commencing with Section 1170)
7 of Title 7 of Part 2, a prisoner shall not be eligible for parole
8 unless he or she has been evaluated by two practicing psychiatrists
9 or licensed psychologists, or one practicing psychiatrist and one
10 practicing licensed psychologist and both of these professionals
11 have concluded that the prisoner poses no danger to society and
12 is suitable for parole pursuant to this section.
13 (b) The psychiatrists or licensed psychologists evaluating
14 prisoners pursuant to this section shall be designated by the State
15 Department of Mental Health to assess prisoners. The psychiatrists
16 or licensed psychologists, in order to be qualified to assess
17 prisoners, shall have at least two years experience under the
18 supervision of psychiatrists or licensed psychologists who have
19 been designated by the department to assess prisoners. The
20 psychiatrists or licensed psychologists designated by the
21 department shall be familiar with the use of objective measures of

1 *personalities and, specifically, with the administration of the*
2 *Minnesota Multiphasic Personality Inventory (MMPI).*

3 *(c) In assessing prisoners pursuant to this section, the*
4 *psychiatrists or licensed psychologists evaluating a prisoner shall*
5 *interview the prisoner and administer and interpret an MMPI for*
6 *the prisoner. The prisoner's initial sentencing memorandum that*
7 *was issued when the prisoner was sentenced in court shall be taken*
8 *into consideration by any psychiatrist or licensed psychologist*
9 *performing an evaluation of a prisoner pursuant to this section.*
10 *In order for the evaluating psychiatrists or licensed psychologists*
11 *to reach an assessment that the prisoner may be returned to society*
12 *on parole, they must conclude that the assessment affirmatively*
13 *supports the release and that he or she does not pose a danger to*
14 *society.*

15 *(d) Notwithstanding any other assessments that may be*
16 *considered by the Board of Parole Hearings, no inmate shall be*
17 *eligible for parole unless both of the evaluating psychiatrists or*
18 *licensed psychologists conclude that the assessment made pursuant*
19 *to this section affirmatively supports the prisoner's release on*
20 *parole. In the event that the evaluating psychiatrists or licensed*
21 *psychologists conclude that their assessments affirmatively support*
22 *the prisoner's release on parole pursuant to this section, the board*
23 *shall nonetheless retain discretion to deny parole based on any*
24 *other criteria considered by the board.*

25 ~~SECTION 1. Section 3000 of the Penal Code is amended to~~
26 ~~read:~~

27 ~~3000. (a) (1) The Legislature finds and declares that the period~~
28 ~~immediately following incarceration is critical to successful~~
29 ~~reintegration of the offender into society and to positive citizenship.~~
30 ~~It is in the interest of public safety for the state to provide for the~~
31 ~~effective supervision of and surveillance of parolees, including~~
32 ~~the judicious use of revocation actions, and to provide educational,~~
33 ~~vocational, family and personal counseling necessary to assist~~
34 ~~parolees in the transition between imprisonment and discharge. A~~
35 ~~sentence pursuant to Section 1168 or 1170 shall include a period~~
36 ~~of parole, unless waived, or as otherwise provided in this article.~~

37 ~~(2) The Legislature finds and declares that it is not the intent of~~
38 ~~this section to diminish resources allocated to the Department of~~
39 ~~Corrections and Rehabilitation for parole functions for which the~~
40 ~~department is responsible. It is also not the intent of this section~~

1 to diminish the resources allocated to the Board of Parole Hearings
2 to execute its duties with respect to parole functions for which the
3 board is responsible.

4 (3) The Legislature finds and declares that diligent effort must
5 be made to ensure that parolees are held accountable for their
6 criminal behavior, including, but not limited to, the satisfaction of
7 restitution fines and orders.

8 (4) The parole period of any person found to be a sexually
9 violent predator shall be tolled until that person is found to no
10 longer be a sexually violent predator, at which time the period of
11 parole, or any remaining portion thereof, shall begin to run.

12 (b) Notwithstanding any provision to the contrary in Article 3
13 (commencing with Section 3040) of this chapter, the following
14 shall apply:

15 (1) At the expiration of a term of imprisonment of one year and
16 one day, or a term of imprisonment imposed pursuant to Section
17 1170 or at the expiration of a term reduced pursuant to Section
18 2931 or 2933, if applicable, the inmate shall be released on parole
19 for a period not exceeding three years, except that any inmate
20 sentenced for an offense specified in paragraph (3), (4), (5), (6),
21 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be
22 released on parole for a period not exceeding five years, unless in
23 either case the parole authority for good cause waives parole and
24 discharges the inmate from the custody of the department.

25 (2) In the case of any inmate sentenced under Section 1168, the
26 period of parole shall not exceed five years in the case of an inmate
27 imprisoned for any offense other than first or second degree murder
28 for which the inmate has received a life sentence, and shall not
29 exceed three years in the case of any other inmate, unless in either
30 case the parole authority for good cause waives parole and
31 discharges the inmate from custody of the department. This
32 subdivision shall also be applicable to inmates who committed
33 crimes prior to July 1, 1977, to the extent specified in Section
34 1170.2.

35 (3) Notwithstanding paragraphs (1) and (2), in the case of any
36 offense for which the inmate has received a life sentence pursuant
37 to Section 667.61 or 667.71, the period of parole shall be 15 years.

38 (4) The parole authority shall consider the request of any inmate
39 regarding the length of his or her parole and the conditions thereof.

1 ~~(5) Upon successful completion of parole, or at the end of the~~
2 ~~maximum statutory period of parole specified for the inmate under~~
3 ~~paragraph (1), (2), or (3), as the case may be, whichever is earlier,~~
4 ~~the inmate shall be discharged from custody. The date of the~~
5 ~~maximum statutory period of parole under this subdivision and~~
6 ~~paragraphs (1), (2), and (3) shall be computed from the date of~~
7 ~~initial parole and shall be a period chronologically determined.~~
8 ~~Time during which parole is suspended because the prisoner has~~
9 ~~absconded or has been returned to custody as a parole violator~~
10 ~~shall not be credited toward any period of parole unless the prisoner~~
11 ~~is found not guilty of the parole violation. However, the period of~~
12 ~~parole is subject to the following:~~

13 ~~(A) Except as provided in Section 3064, in no case may a~~
14 ~~prisoner subject to three years on parole be retained under parole~~
15 ~~supervision or in custody for a period longer than four years from~~
16 ~~the date of his or her initial parole.~~

17 ~~(B) Except as provided in Section 3064, in no case may a~~
18 ~~prisoner subject to five years on parole be retained under parole~~
19 ~~supervision or in custody for a period longer than seven years from~~
20 ~~the date of his or her initial parole.~~

21 ~~(C) Except as provided in Section 3064, in no case may a~~
22 ~~prisoner subject to 10 years on parole be retained under parole~~
23 ~~supervision or in custody for a period longer than 15 years from~~
24 ~~the date of his or her initial parole.~~

25 ~~(6) The Department of Corrections and Rehabilitation shall meet~~
26 ~~with each inmate at least 30 days prior to his or her good time~~
27 ~~release date and shall provide, under guidelines specified by the~~
28 ~~parole authority, the conditions of parole and the length of parole~~
29 ~~up to the maximum period of time provided by law. The inmate~~
30 ~~has the right to reconsideration of the length of parole and~~
31 ~~conditions thereof by the parole authority. The Department of~~
32 ~~Corrections and Rehabilitation or the Board of Parole Hearings~~
33 ~~may impose as a condition of parole that a prisoner make payments~~
34 ~~on the prisoner's outstanding restitution fines or orders imposed~~
35 ~~pursuant to subdivision (a) or (c) of Section 13967 of the~~
36 ~~Government Code, as operative prior to September 28, 1994, or~~
37 ~~subdivision (b) or (f) of Section 1202.4.~~

38 ~~(7) For purposes of this chapter, the Board of Parole Hearings~~
39 ~~shall be considered the parole authority.~~

1 ~~(8) The sole authority to issue warrants for the return to actual~~
2 ~~custody of any state prisoner released on parole rests with the~~
3 ~~Board of Parole Hearings, except for any escaped state prisoner~~
4 ~~or any state prisoner released prior to his or her scheduled release~~
5 ~~date who should be returned to custody, and Section 3060 shall~~
6 ~~apply.~~

7 ~~(9) It is the intent of the Legislature that efforts be made with~~
8 ~~respect to persons who are subject to Section 290.011 who are on~~
9 ~~parole to engage them in treatment.~~